

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
EASTERN DIVISION**

HUS HARI BULJIC INDIVIDUALLY AND AS
ADMINISTRATOR OF THE ESTATE OF SEDIKA
BULJIC, HONARIO GARCIA INDIVIDUALLY AND
AS ADMINISTRATOR OF THE ESTATE OF
REBERIANO LENO GARCIA, AND ARTURO DE
JESUS HERNANDEZ AND MIGUEL ANGEL
HERNANDEZ AS CO-ADMINISTRATORS OF THE
ESTATE OF JOSE AYALA,

PLAINTIFFS,

v.

TYSON FOODS, INC., TYSON FRESH MEATS, INC.,
JOHN H. TYSON, NOEL W. WHITE, DEAN BANKS,
STEPHEN R. STOUFFER, TOM BROWER, TOM
HART, CODY BRUSTKERN, JOHN CASEY, AND
BRET TAPKEN,

DEFENDANTS.

Case No. 6:20-cv-02055

**BRIEF IN SUPPORT OF MOTION FOR
LEAVE TO FILE SECOND AMENDED
COMPLAINT**

Federal Rule of Civil Procedure 15(a)(2) provides that leave to amend shall be freely given when justice so requires. While there is no absolute right to amend, “a motion to amend should be denied on the merits only if it asserts clearly frivolous claims or defenses.” *Becker v. Univ. of Neb. at Omaha*, 191 F.3d 904, 908 (8th Cir. 1999) (internal quotation marks omitted). “Whether to grant a motion for leave to amend is within the sound discretion of the court.” *Id.*

Plaintiffs recently discovered new facts that are highly relevant to this matter. These facts directly support Plaintiffs’ allegations of gross negligence and fraudulent misrepresentation, and necessitate the need to name James Hook, the Director of Human Resources for the Tyson Waterloo Facility, as a Defendant in this case. Accordingly, good cause exists to grant Plaintiffs’ motion for leave to amend.

Because the proffered amendments are timely under the Court’s scheduling order, because

Plaintiffs promptly moved to amend upon discovering these highly relevant facts, and because leave to amend should be freely given when justice so requires, Plaintiffs should be given leave to file their Second Amended Complaint.

DATED this 24th day of November 2020.

/s/ Thomas P. Frerichs
Thomas P. Frerichs (AT0002705)
Frerichs Law Office, P.C.
106 E. 4th Street, P.O. Box 328
Waterloo, IA 50704-0328
319.236.7204 / 319.236.7206 (fax)
tfrerichs@frerichslaw.com

John J. Rausch
Rausch Law Firm, PLLC
3909 University Ave., P.O. Box 905
Waterloo, IA 50704-0905
319.233.35557 / 319.233.3558 (fax)
rauschlawfirm@dybb.com

Mel C. Orchard, III
G. Bryan Ulmer, III
Gabriel Phillips
The Spence Law Firm, LLC
15 S. Jackson Street
P.O. Box 548
Jackson, WY 83001
307.337.1283 / 307.337.3835 (fax)
orchard@spencelawyers.com
ulmer@spencelawyers.com
phillips@spencelawyers.com

Attorneys for the Plaintiffs